

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

COREY L. SHELTON,

Defendant.

8:94CR94

ORDER

Defendant Corey L. Shelton (Shelton) appeared before the court on December 8, 2006, on a Petition for Warrant or Summons for Offender Under Supervision (Report) (Filing No. 517). Shelton was represented by Assistant Federal Public Defender Michael F. Maloney and the United States was represented by Assistant U.S. Attorney Jan W. Sharp. Through his counsel, Shelton requested a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). (Filing No. 521) The hearing was scheduled for December 13, 2006. Shelton was detained in the custody of the U.S. Marshal pending the probable cause hearing.

Prior to the hearing on December 13, 2006, an Amended Petition for Warrant or Summons for Offender Under Supervision (Amended Report) was filed (Filing No. 522). Shelton again appeared before the court on December 13, 2006. Shelton was represented by Assistant Federal Public Defender Michael F. Maloney and the United States was represented by Assistant U.S. Attorney Jan W. Sharp. Shelton was advised of the allegation of the Amended Report and reiterated his request for a probable cause hearing. The probable cause hearing commenced forthwith.

The court heard the testimony of Senior U.S. Probation Officer Michael W. Tolley. Officer Tolley testified to the reports he received from the Omaha Police Department (OPD) and Ms. Jasmine Wheeler. While Ms. Wheeler now wished to withdraw her complaint, it is clear from the reports and the observation of Ms. Wheeler by the OPD officers at the time of the alleged assault, that, in fact, Ms. Wheeler had been assaulted and harassed by Shelton. Further, Officer Tolley testified to Shelton's failure to report as directed and to Shelton's positive drug tests, one such test for marijuana use being admitted to by Shelton. I find that there is probable cause to believe the alleged violations of supervised release as set forth in the Amended Report have occurred. I find Shelton should be held to answer for a final dispositional hearing before Senior Judge Lyle E. Strom.

The government moved for detention. Through counsel, Shelton requested release to his brother in Omaha pending a dispositional hearing before Senior Judge Strom. Given the nature of the allegations in the Amended Report, I find Shelton has failed to carry his burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community. Accordingly, Shelton shall be detained pending the dispositional hearing before Senior Judge Strom.

IT IS ORDERED:

1. A final dispositional hearing will be held before Senior Judge Lyle E. Strom in Courtroom No. 5, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 9:00 a.m. on December 19, 2006.** Defendant must be present in person.

2 Defendant Corey Shelton is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 13th day of December, 2006.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge